

United States Court of Appeals
For the Eighth Circuit

No. 14-1927

United States of America

Plaintiff - Appellee

v.

Jose Ruiz, Jr.

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Davenport

Submitted: September 5, 2014

Filed: September 24, 2014

[Unpublished]

Before MURPHY, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Jose Ruiz directly appeals after the district court¹ revoked his supervised release and sentenced him within the revocation Guidelines range to 37 months in

¹The Honorable John A. Jarvey, United States District Judge for the Southern District of Iowa.

prison. Ruiz's counsel has moved to withdraw, and has filed a brief arguing that Ruiz's sentence is substantively unreasonable.

Upon careful review, we conclude that the within-Guidelines-range revocation sentence was not substantively unreasonable. See United States v. Petreikis, 551 F.3d 822, 824 (8th Cir. 2009) (applying presumption of substantive reasonableness to revocation sentence within Guidelines range); see also United States v. Growden, 663 F.3d 982, 984 (8th Cir. 2011) (per curiam) (revocation sentence is reviewed for substantive reasonableness under deferential abuse-of-discretion standard). Counsel notes in the brief that Ruiz believes the district court judge should have recused himself, but nothing in the record indicates that a sua sponte recusal was warranted. See United States v. Melton, 738 F.3d 903, 905-06 (8th Cir. 2013) (discussing plain-error review of recusal issues raised for first time on appeal).

Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw, subject to counsel informing Ruiz about procedures for seeking rehearing or filing a petition for certiorari.
